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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,343	10/15/2001	J Eric Mowat	5693P005	5512

48102 7590 08/24/2006

NETWORK APPLIANCE/BLAKELY
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER	
BILGRAMI, ASGHAR H	

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/981,343	MOWAT, J ERIC	
	Examiner	Art Unit	
	Asghar Bilgrami	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on *15 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 December 2005 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-48 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Rourke et al (U.S. 6,986,018 B2)

As per claims 1, 5, 15, 20, 23, 26, 31, 32, 34, 37, 41 & 42 O'Rourke disclosed a network caching device to operate within a defined cache hierarchy on a network, the caching device comprising: a cache to store content from an origin server on the network; an application to receive a request for content from a client via the network, and to forward the request on the network based on a

set of forwarding rules in the event of a cache miss (col.5, lines 43-56); a user interface to enable a user to specify and modify the set of forwarding rules; a rule encoder to encode into a uniform syntax forwarding rules specified by the user (col.2, lines 23-57); a rules database to store the encoded forwarding rules (col.4, lines 10-22); a rule evaluator to evaluate the set of forwarding rules sequentially in response to the cache miss, to identify a rule in the set of forwarding rules which applies to the request, by identifying a correspondence between a variable in the request and a variable in the rule, the rule specifying a host within the cache hierarchy as a forwarding destination for the request; and a rule engine to determine an availability of the host and to select the host as said forwarding destination for the request if the host is available, the rule engine further to indicate the host to the application layer if the host is available to cause the application layer to attempt to establish a connection with the host, such that the application layer forwards the request to the host upon successfully establishing the connection (col.8, lines 5-23, lines 51-67, col.9 & col.10, lines 1-4).

4. As per claims 2, 16 & 40 O'Rourke disclosed a device as recited in claim 1, wherein the device operates within a defined forwarding hierarchy, and the user may specify one or more of the forwarding rules to indicate a manner of forwarding the request within the forwarding hierarchy (col.4, lines 10-22 & col.8, lines 5-23).

5. As per claims 3, 17, 24 & 35 O'Rourke disclosed a device as recited in claim 2, wherein the forwarding hierarchy is a cache hierarchy (col.5, lines 43-56).

6. As per claims 4, 18, 19, 25 & 36 O'Rourke disclosed a device as recited in claim 3, further comprising a cache to store content requestable by a client on the network, wherein the request processing unit forwards the request only in the event of a cache miss, wherein the request is a request for content on the network ((col.4, lines 10-22 & col.8, lines 5-23).

7. As per claims 6, 21, 27 & 28 O'Rourke disclosed an intermediary network node as recited in claim 26, wherein the rule evaluator identifies the rule, which applies to the request by determining that a condition in the rule is satisfied ((col.4, lines 10-22 & col.8, lines 5-23).

8. As per claims 7, 38 & 39 O'Rourke disclosed a method as recited in claim 37, further comprising, if said attempting to establish the connection is unsuccessful: determining whether a second available host is indicated in the rule, and if so, attempting to establish a connection to the second available host; and forwarding the request to the second available host (col.4, lines 10-22 & col.8, lines 5-23).

9. As per claims 8, 33 & 29 O'Rourke disclosed a device as recited in claim 1, wherein said rule comprises a plurality of destinations, and wherein the rule engine selects a destination from among the plurality of destinations as a forwarding destination for the request, based on at least one delivery factor included in the rule ((col.4, lines 10-22 & col.8, lines 5-23).

10. As per claim 9 O'Rourke disclosed a device as recited in claim 8, wherein the at least one delivery factor comprises a specified distribution method for the request (col.4, lines 10-22 & col.8, lines 5-23).

11. As per claim 10 O'Rourke disclosed a device as recited in claim 8, wherein the at least one delivery factor comprises an indication of a current load on at least one of the destinations (col.423-33).

12. As per claim 11 O'Rourke disclosed a device as recited in claim 8, wherein the at least one delivery factor comprises a weighting of the plurality of destinations indicating a preferred distribution of forwarding requests between the plurality of destinations (col.4, lines 10-22 & col.8, lines 5-23).

13. As per claims 12, 13, 14, 16, 22, 30 & 43 O'Rourke disclosed a device as recited in claim 1, wherein the user interface is further to enable the user to specify a sequence in which the rules of the set of forwarding rules are evaluated in response to the request (col.4, lines 10-22 & col.8, lines 5-23).

14. As per claims 44, 46, 47 & 48 O'Rourke disclosed a method as recited in claim 34, further comprising, prior to said forwarding the request: acquiring information about the forwarding destination, the information being indicative of a responsiveness of the forwarding destination; computing a timeout period based on the information indicative of the responsiveness of the following destination; and using the computed timeout period, in the request, in attempting to establish a connection with the forwarding destination (col.4, lines 10-22 & col.8, lines 5-23).

Response to Arguments

15. Applicant's arguments with respect to claims 1-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Asghar Bilgrami
Examiner
Art Unit 2143

AB

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